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BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)
)
EVERETT D. ALLEN, M.D.)
Certificate No. G-54881)
)
Respondent.)
_____)


No. 13-93-27767

DECISION

The attached Stipulation and Waiver is hereby adopted by the
Division of Medical Quality as its Decision in the above-entitled
matter.

This Decision shall become effective on December 26, 1997.

IT IS SO ORDERED November 26, 1997.

By: 

IRA LUBELL, M.D.
Chairperson, Panel A
Division of Medical Quality

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 DAVID M. GUSTAFSON, State Bar No. 96787
Deputy Attorney General
3 2101 Webster Street, 12th Floor
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5 Attorneys for Complainant

6 BEFORE THE DIVISION OF MEDICAL QUALITY

7 MEDICAL BOARD OF CALIFORNIA

8 STATE OF CALIFORNIA
9

10 In the Matter of the Accusation) Nos. 13-93-27767
Against:)

11 EVERETT D. ALLEN, M.D.)
12 24 West Kappas Marina, #8)
Sausalito, California 94965)

STIPULATION AND WAIVER

13 Physician's and Surgeon's)
14 Certificate No. G054881)

15

16 IT IS HEREBY STIPULATED AND AGREED TO by and between
17 respondent Everett D. Allen, M.D., with the counsel and advice of
18 his attorney, Robert K. Crawford, Esq., and complainant Ronald
19 Joseph, in his official capacity as Executive Director of the
20 Medical Board of California (hereinafter, the "Board"), by and
21 through his attorney, Daniel E. Lungren, Attorney General, by
22 David M. Gustafson, Deputy Attorney General, as follows:

23 1. Complainant in this action, Ronald Joseph, is the
24 Executive Director of the Medical Board of California and brought
25 and maintained the Accusation in Case No. 13-93-27767
26 (hereinafter, the "Accusation") solely in his official capacity.
27 A copy of the Accusation is attached as Exhibit A and

1 incorporated by reference into this Stipulation and Waiver.

2 2. The Medical Board of California and its Division of
3 Medical Quality (hereinafter, the "Division") has jurisdiction to
4 enter into this Stipulation and Waiver pursuant to Business and
5 Professions Code sections 2220, 2227 and 2234.

6 3. Respondent's physician's and surgeon's certificate
7 history and status, as set forth in paragraph 2 of the
8 Accusation, is true and correct.

9 4. Respondent has received and read the Accusation
10 which is presently on file and pending in this case before the
11 Medical Board of California.

12 5. Respondent understands the nature of the charges
13 and allegations set forth in the Accusation and understands and
14 agrees that those charges and allegations if proved would
15 constitute cause for imposing discipline upon the physician's and
16 surgeon's certificate issued to respondent by the Board.

17 6. Respondent is fully aware of respondent's right to
18 a hearing on the charges and allegations contained in the
19 Accusation, including his right to contest the charges and
20 allegations brought against him, his right to confront and cross-
21 examine witnesses testifying against him, his right to present
22 evidence in his favor and call witnesses to testify on his
23 behalf, and his right to testify himself. Respondent is also
24 fully aware of respondent's right to reconsideration, judicial
25 review, appeal, and any and all other rights which may be
26 accorded him pursuant to the California Administrative Procedure
27 Act (Government Code section 11500, et seq.) and other laws of

1 the State of California.

2 7. Respondent has retained his attorney of record to
3 represent and counsel him in this action and has consulted with
4 his attorney regarding the nature and effect of this Stipulation
5 and Waiver with Accusation attached thereto, which respondent has
6 carefully read and fully understands.

7 8. Respondent understands that, in signing this
8 Stipulation and Waiver, respondent is enabling the Division to
9 impose disciplinary action on his physician's and surgeon's
10 certificate without further legal process or requirement, and
11 respondent agrees thereto.

12 9. In exchange for settlement and compromise of this
13 action by way of this Stipulation and Waiver, respondent freely
14 and voluntarily waives all rights set forth above, including, but
15 not limited to, his rights to a hearing, reconsideration,
16 judicial review, appeal, and any and all other form of challenge
17 to the legal force and effect of this Stipulation and Waiver, and
18 any and all other rights which may be accorded him by the
19 California Administrative Procedure Act and other laws of the
20 State of California. Respondent further waives any and all other
21 legal claims or defenses, including time-based defenses such as
22 laches, which he may have asserted in this action. Respondent
23 does not waive his rights under Business and Professions Code
24 section 2307 to petition for modification or termination of
25 probation.

26 10. Respondent admits that the charges, allegations
27 and recitations set forth in paragraphs 4 through 6, inclusive,

1 of the Accusation are true and correct, and constitute adequate
2 factual and legal basis and cause for the Division to take
3 disciplinary action against respondent's physician's and
4 surgeon's certificate pursuant to Business and Professions Code
5 sections 2238 and 2239(a).

6 11. This Stipulation and Waiver constitutes an offer
7 in settlement by the parties to this agreement.

8 12. Based upon the foregoing admissions, stipulations
9 and recitals, IT IS HEREBY STIPULATED AND AGREED that the
10 Division of Medical Quality shall issue the following Order:

11 Respondent is subject immediately as of the effective date
12 of the Division's Decision (as specified on lines 6 and 7 of the
13 Division's Decision and Order in Case No. 13-93-27767 attached
14 hereto) to the terms, conditions, requirements, restrictions and
15 prohibitions set forth in this Stipulation and Waiver.

16 A. Revocation and Stay

17 Physician's and Surgeon's Certificate No. G054881
18 issued to respondent Everett D. Allen, M.D. is revoked on the
19 basis (separately and for all of them) of the admissions set
20 forth in paragraph 10 of this Stipulation and Waiver, and the
21 charges and allegations set forth in the Accusation filed in Case
22 No. 13-93-27767. However, revocation is stayed and respondent is
23 placed on probation for five (5) years upon and subject to the
24 terms, conditions, requirements, restrictions and prohibitions of
25 this Stipulation and Waiver.

26 B. Notification of Hospitals and Insurance Carriers

27 Within fifteen (15) days after the effective date of

1 the Division's Decision, respondent shall provide the Division or
2 its designee proof of service that respondent has served a true
3 copy of this Stipulation and Waiver with attached Accusation, as
4 well as the Division's Decision and Order in Case No. 13-93-27767
5 on the Chief of Staff or the Chief Executive Officer at every
6 hospital where privileges or membership are extended to
7 respondent or facility where respondent is employed to practice
8 medicine or from which respondent receives financial support or
9 funding, and on the Chief Executive Officer at every insurance
10 carrier where malpractice insurance coverage is extended to
11 respondent.

12 C. Prescription of Drugs

13 Respondent shall not prescribe, administer, dispense,
14 order, or possess any controlled substance (as defined by the
15 California Uniform Controlled Substances Act), except for those
16 controlled substances listed in Schedules III, IV and V of the
17 Act. Respondent is permitted to prescribe, administer, dispense,
18 order, or possess controlled substances listed in Schedules III,
19 IV and V of the Act only for in-patients in a hospital setting,
20 and not otherwise, and only under the supervision and with the
21 approval of respondent's supervising physician monitor (specified
22 in paragraph 12K of this Stipulation and Waiver). Respondent
23 shall immediately surrender respondent's current U.S. Drug
24 Enforcement Administration ("DEA") controlled substances permit
25 to the DEA for cancellation and reapply for a new DEA controlled
26 substances permit limited to Schedules III, IV and V. Respondent
27 shall provide documentation acceptable to the Division or its

1 designee that respondent has surrendered his DEA controlled
2 substances permit and has been issued by the DEA a new permit
3 limited to Schedules III, IV and V.

4 D. Personal Drug Use and/or Possession

5 Respondent shall abstain completely from the personal
6 use or possession of any controlled substance (as defined in the
7 California Uniform Controlled Substances Act), dangerous drug (as
8 defined by Section 4211 of the Business and Professions Code), or
9 any drug, substance, paraphernalia or other material requiring a
10 prescription. This prohibition does not apply to medications
11 lawfully prescribed to respondent for a bona fide illness or
12 condition by another practitioner and approved by the Division or
13 its designee.

14 E. Record of Controlled Substances Prescriptions

15 Respondent shall maintain a record of all controlled
16 substances and dangerous drugs prescribed, administered,
17 dispensed, ordered or possessed by respondent during probation,
18 showing all the following: 1) the name and address of the
19 patient; 2) the date of prescribing, dispensing, ordering or
20 administering the controlled substance; 3) the character and
21 quantity of the controlled substance involved, and; 4) the
22 medical indication and diagnosis for which the controlled
23 substance was furnished. Respondent shall keep these records in
24 a separate file or ledger, in chronological order, and shall make
25 them available for inspection and copying by the Division or its
26 designee upon request.

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1 F. Alcohol Use

2 Respondent shall abstain completely from the
3 possession, use and consumption of alcoholic beverages.

4 G. Biological Fluid Testing

5 Respondent shall immediately submit to biological fluid
6 testing, at respondent's cost, upon the request of the Division
7 or its designee.

8 H. Education Program/Course

9 Within thirty (30) days of the effective date of the
10 Division's Decision, and on an annual basis thereafter,
11 respondent shall submit to the Division or its designee for its
12 prior approval an educational program or course in substance
13 abuse, which shall consist of at least forty (40) hours of
14 instruction per year for each year of probation. Each yearly
15 program or course shall be in addition to the Continuing Medical
16 Education requirements for re-licensure. Respondent shall pay
17 the costs associated with taking and completing each educational
18 program or course. Following the completion of each program or
19 course by respondent, the Division or its designee may administer
20 an examination to respondent to test respondent's knowledge of
21 the program or course. Respondent shall provide documentation
22 acceptable to the Division or its designee indicating that
23 respondent is complying with this requirement on a timely basis
24 during each year of probation.

25 I. Psychotherapy

26 Within thirty (30) days of the effective date of the
27 Division's Decision, respondent shall submit to the Division or

1 its designee for prior approval the name and qualifications of a
2 psychotherapist of respondent's choice. Such psychotherapist
3 shall be a psychiatrist specializing in: (1) the treatment of
4 substance abuse and dependence problems, and; (2) the treatment
5 of depression disorders. Upon approval by the Division,
6 respondent shall undergo and continue psychotherapeutic treatment
7 on at least a weekly basis until the Division or its designee
8 deems that no further psychotherapy is necessary. Respondent
9 shall have the treating psychotherapist submit quarterly status
10 reports to the Division or its designee. The Division or its
11 designee may require respondent to undergo psychiatric
12 evaluations, including psychological testing if deemed necessary,
13 by a Division-appointed psychiatrist. Respondent shall pay the
14 cost of psychotherapy and any psychiatric evaluations required.
15 If the psychotherapist initially approved by the Division or its
16 designee resigns or becomes no longer available, respondent
17 shall, within fifteen (15) days of that resignation or
18 unavailability, move to have a new psychotherapist appointed,
19 through nomination by respondent and approval by the Division or
20 its designee of that new psychotherapist.

21 J. Treatment with Anti-Depressant Medication

22 Respondent shall undergo, and fully comply with,
23 treatment with anti-depressant medication as deemed appropriate
24 by respondent's psychotherapist specified in paragraph 12I of
25 this Stipulation and Waiver. Respondent is specifically
26 prohibited from failing or refusing to take, in a timely fashion
27 and according to the relevant prescription regimen, any anti-

1 depressant medication prescribed by respondent's psychotherapist.

2 K. Monitoring of Medical Practice

3 Respondent shall not practice medicine unless under the
4 supervision and monitoring of a supervising physician monitor,
5 approved by the Division or its designee, who shall monitor and
6 approve respondent's prescription, administering, dispensing,
7 ordering, and possession of controlled substances and dangerous
8 drugs. Within thirty (30) days of the effective date of the
9 Division's Decision, respondent shall submit to the Division or
10 its designee for its prior approval a plan in which respondent's
11 prescription, administering, dispensing, ordering, and possession
12 of controlled substances and dangerous drugs shall be monitored
13 by a supervising physician monitor practicing in respondent's
14 field of practice, who shall provide periodic reports to the
15 Division or its designee. If the supervising physician monitor
16 initially approved by the Division or its designee resigns or
17 becomes no longer available, respondent shall, within fifteen
18 (15) days of that resignation or unavailability, move to have a
19 new supervising physician monitor appointed, through nomination
20 by respondent and approval by the Division or its designee of
21 that new supervising physician monitor.

22 L. Obey All Laws

23 Respondent shall obey all federal, state and local
24 laws, all rules governing the practice of medicine in California
25 and remain in full compliance with any court-ordered criminal
26 probation, payments and other orders.

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1 M. Quarterly Reports

2 Respondent shall submit quarterly declarations under
3 penalty of perjury on forms provided by the Division, stating
4 whether there has been compliance with all the terms, conditions,
5 requirements, restrictions and prohibitions of probation as set
6 forth in this Stipulation and Waiver.

7 N. Probation Surveillance Program Compliance

8 Respondent shall comply with the Division's probation
9 surveillance program and shall pay all costs of probation
10 monitoring incurred by the Division or its designee. Respondent
11 shall, at all times, keep the Division informed by written notice
12 of his addresses of business and residence which shall both serve
13 as addresses of record. Changes of such addresses shall be
14 immediately communicated in writing to the Division. Under no
15 circumstances shall a post office box serve as an address of
16 record. Respondent shall also immediately inform the Division,
17 in writing, of any travel to any areas outside the jurisdiction
18 of California which lasts, or is contemplated to last, more than
19 thirty (30) days.

20 O. Interviews with the Division or its Designee

21 Respondent shall appear in person for interviews with
22 the Division, its designee or its designated physician(s) upon
23 request at various intervals and with reasonable notice.

24 P. Tolling for Out-of-State Practice, Residence or In-
25 State Non-Practice

26 In the event respondent should leave the State of
27 California to reside or to practice medicine outside the State of

1 California or for any reason should respondent stop practicing
2 medicine in the State of California, respondent shall notify the
3 Division or its designee in writing within ten (10) days of the
4 dates of departure and return or the dates commencing or ending
5 the period of non-practice within California. "Non-practice" is
6 defined as any period of time exceeding thirty (30) days in which
7 respondent is not engaging in any activities defined in sections
8 2051 and 2052 of the Business and Professions Code. All time
9 spent in an intensive training program approved by the Division
10 or its designee shall be considered as time spent in the practice
11 of medicine. Periods of temporary or permanent residence or
12 practice outside California or of non-practice within California,
13 as defined in this condition, will not apply to the reduction of
14 the probationary period.

15 Q. Completion of Probation

16 Upon successful completion of probation, respondent's
17 certificate shall be fully restored.

18 R. Violation of Probation

19 If respondent violates probation in any respect, the
20 Division, after giving respondent notice and the opportunity to
21 be heard, may revoke probation and carry out the disciplinary
22 order that was stayed. If an accusation or petition to revoke
23 probation is filed against respondent during probation, the
24 Division shall have continuing jurisdiction until the matter is
25 final, and the period of probation shall be extended until the
26 matter is final.

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1 S. Cost Recovery

2 Respondent is hereby ordered to reimburse the Division
3 for its investigative and prosecution costs in the amount of ten
4 thousand five hundred dollars (\$10,500) according to the
5 following schedule: Respondent shall pay the Division two
6 thousand dollars (\$2000) within ten (10) days of the effective
7 date of the Division's Decision and shall pay the remaining eight
8 thousand five hundred dollars (\$8,500) to the Division in five
9 quarterly installments of one thousand five hundred dollars
10 (\$1,500) per quarter and a sixth and final quarterly installment
11 of one thousand dollars (\$1,000). Respondent shall pay the first
12 quarterly installment on or before December 31, 1997, the second
13 quarterly installment on or before March 31, 1998, the third
14 quarterly installment on or before June 30, 1998, the fourth
15 quarterly installment on or before September 30, 1998, the fifth
16 quarterly installment on or before December 31, 1998, and the
17 sixth and final quarterly installment on or before March 31,
18 1999. Failure to reimburse the Division for its costs of
19 investigation and prosecution in a timely fashion as set forth
20 above shall constitute a violation of the probation order. The
21 filing of bankruptcy by respondent shall not relieve respondent
22 of his responsibility to reimburse the Division for its
23 investigative and prosecution costs.

24 T. License Surrender

25 Following the effective date of the Division's
26 Decision, if respondent ceases practicing due to retirement,
27 health reasons or is otherwise unable to satisfy the terms and

1 conditions of probation, respondent may voluntarily tender his
2 physician's and surgeon's certificate to the Board. The Division
3 reserves the right to evaluate respondent's request to
4 voluntarily tender his physician's and surgeon's certificate and
5 to exercise its discretion whether to grant the request, or to
6 take any other action deemed appropriate and reasonable under the
7 circumstances. Upon formal acceptance of the tendered
8 physician's and surgeon's certificate, respondent will no longer
9 be subject to the terms and conditions of probation.

10 13. IT IS FURTHER STIPULATED AND AGREED that the
11 terms, conditions, requirements, restrictions and prohibitions
12 set forth in this Stipulation and Waiver shall be subject to
13 approval by the Division and shall be null and void and in no way
14 binding upon the parties to the Stipulation and Waiver until
15 accepted by the Division as its Decision and Order in Case No.
16 13-93-27767. Respondent understands and agrees that Division and
17 Board staff and counsel for complainant may communicate directly
18 with the Division and the Board regarding this Stipulation and
19 Waiver, without notice to or participation by respondent or
20 respondent's counsel or representative. If the Division fails to
21 adopt this Stipulation and Waiver as its Decision and Order, the
22 Stipulation and Waiver shall be of no force or effect, it shall
23 be inadmissible in any legal action between the parties, and the
24 Division shall not be disqualified from further action in this
25 matter by virtue of its consideration of this Stipulation and
26 Waiver.

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1 DATED:

10/27/97



ROBERT K. CRAWFORD, Esq.

Attorney for Respondent

7 DATED:

3 November 1997

DANIEL E. LUNGREN, Attorney General of
the State of California


DAVID M. GUSTAFSON, Esq.
Deputy Attorney General

Attorney for Complainant

1 RESPONDENT'S CERTIFICATION AND ACCEPTANCE

2 I hereby certify that I have read this Stipulation and
3 Waiver in its entirety along with the Accusation attached
4 thereto, that I fully understand the nature and effect of this
5 Stipulation and Waiver, and fully understand the terms,
6 conditions, requirements, restrictions and prohibitions of this
7 Stipulation and Waiver and the Accusation attached thereto, that
8 I fully understand the legal significance and the consequences of
9 signing this Stipulation and Waiver, and that I agree to the
10 terms, conditions, requirements, restrictions and prohibitions of
11 this Stipulation and Waiver and enter into this Stipulation and
12 Waiver freely and voluntarily and with full knowledge of its
13 force and effect. I understand and recognize that, in signing
14 this Stipulation and Waiver, I am enabling the Board to impose
15 the disciplinary action specified by this Stipulation and Waiver
16 on my physician's and surgeon's certificate (No. G054881) without
17 further legal process or requirement, and I freely and
18 voluntarily agree and stipulate thereto.

19 In witness whereof, I affix my signature this 29 day of
20 October, 1997 at Sausalito, California.


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22 
23 EVERETT D. ALLEN, M.D.
24 Physician's and Surgeon's
25 Certificate No. G054881
26
27

EXHIBIT A

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 DAVID M. GUSTAFSON, State Bar No. 96787
Deputy Attorney General
3 California Department of Justice
2101 Webster Street, 12th Floor
4 Oakland, California 94612
Telephone: (510) 286-4090

5 Attorneys for Complainant
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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO January 28 1992
BY Hester Johnson ANALYST

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BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

11 In the Matter of the Accusation) Case No. 13-93-27767
Against:)
12)
13 EVERETT D. ALLEN, M.D.) ACCUSATION
24 West Kappas Marina, #8)
Sausalito, CA 94965)
14 Physician and Surgeon's License No.)
15 G054881,)
Respondent.)
16)
17)

18 The Complainant alleges:

19 PARTIES

- 20 1. Complainant, Ron Joseph, is the Executive Director
21 of the Medical Board of California (hereinafter the "Board") and
22 brings this accusation solely in his official capacity.
- 23 2. On or about June 30, 1985, physicians and
24 surgeon's license No. G054881 was issued by the Board to Everett
25 D. Allen (hereinafter "respondent"), and at all times relevant to
26 the charges brought herein, this license has been in full force
27 and effect. Unless renewed, it will expire on July 31, 1998.

JURISDICTION

3. This accusation is brought before the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs (hereinafter the "Division"), under the authority of the following sections of the California Business and Professions Code (hereinafter "Code"):

A. Section 2227 of the Code provides that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act.

B. Section 2238 - Violation of federal or state statute or regulation regulating dangerous drugs or controlled substances; unprofessional conduct.

A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.

C. Section 2239 - Misuse of controlled substances, dangerous drugs or alcohol; unprofessional conduct.

(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4211, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one

1 misdemeanor or any felony involving the use,
2 consumption, or self-administration of any of the
3 substances referred to in this section, or any
4 combination thereof, constitutes unprofessional
5 conduct. The record of the conviction is conclusive
6 evidence of such unprofessional conduct.

7 (b) A plea or verdict of guilty or a conviction
8 following a plea of nolo contendere is deemed to be a
9 conviction within the meaning of this section. The
10 Division of Medical Quality may order discipline of the
11 licensee in accordance with Section 2227 or the
12 Division of Licensing may order the denial of the
13 license when the time for appeal has elapsed or the
14 judgment of conviction has been affirmed on appeal or
15 when an order granting probation is made suspending
16 imposition of sentence, irrespective of a subsequent
17 order under the provisions of Section 1203.4 of the
18 Penal Code allowing such person to withdraw his or her
19 plea of guilty and to enter a plea of not guilty, or
20 setting aside the verdict of guilty, or dismissing the
21 accusation, complaint, information, or indictment.

22 D. Section 125.3 of the Code provides, in part, that
23 the Board may request the administrative law judge to direct
24 any licentiate found to have committed a violation or
25 violations of the licensing act, to pay the Board a sum not
26 to exceed the reasonable costs of the investigation and
27 enforcement of the case.

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1 2. Ordering respondent to pay the Division the actual
2 and reasonable costs of the investigation and enforcement of this
3 case;

4 3. Taking such other and further action as the
5 Division deems necessary and proper.

6 DATED: JANUARY 28, 1997 .

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Ron Joseph
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant